

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

STATE OF TEXAS, *et al.*,

Plaintiffs,

V.

XAVIER BECERRA, *et al.*,

Defendants.

Case No. 2:21-CV-00229-Z

CERTIFICATION AND INDEX

I, Sheli Harris, Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services (“CMS”), United States Department of Health and Human Services, certify that, to the best of my knowledge, the materials listed in the accompanying index constitute rulemaking record documents—that is, documents that were directly or indirectly considered in connection with promulgation of the CMS Interim Final Rule with Comment Period entitled “Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination,” 86 Fed. Reg. 61,555 (Nov. 5, 2021), the rule challenged in this litigation—as of November 27, 2021. Privileged documents are not part of this administrative record. *See Ad Hoc Metals Coalition v. Whitman*, 227 F. Supp. 2d 134, 142-43 (D.D.C. 2002); *AMFAC Resorts, L.L.C. v. Dep’t of the Interior*, 143 F. Supp. 2d 7, 13 (D.D.C. 2001). The Department will supplement to the extent additional records are discovered.

Executed this 27th day of November 2021, in Baltimore, Maryland.

Sheli Harris

Sheli Harris
Deputy Director
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Office of Strategic Operations and Regulatory Affairs
Centers for Medicare & Medicaid Services
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